

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

RONA ALLEN,

Debtor.

TF-0014/MK
January 17, 2024
9:00 AM

Case No. 23-22646-CGM-13

Hon. CECELIA G. MORRIS

NOTICE OF MOTION

PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Cecelia G. Morris, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, VIA ZOOM on the 17th day of January, 2024 at 9:00 AM, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. §1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

PLEASE TAKE FURTHER NOTICE, that any hearing on the within application will be held by telephone or Zoom video conference only. No in-person hearing will be held in the Courthouse. Participants are required to register their appearance at https://ecf.nysb.uscourts.gov/cgi-bin/nysbAppearances.pl 48 hours before the scheduled hearing.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Thomas C. Frost, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: White Plains, New York
December 18, 2023

/s/ Thomas C. Frost

THOMAS C. FROST, CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, STE 102
WHITE PLAINS, NY 10603
(914)328-6333

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APPLICATION

TO THE HONORABLE CECELIA G. MORRIS, U.S. BANKRUPTCY JUDGE:

THOMAS C. FROST, ESQ., Standing Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on September 1, 2023 and, thereafter, THOMAS C. FROST was duly appointed and qualified as Trustee.
2. The Debtor's proposed Chapter 13 plan is not feasible as it is not adequately funded to provide for full repayment of 100% of the total amount of all general unsecured claims as it proposes to do in Part 6.1, and as such it cannot be confirmed.
3. Furthermore, the Debtor has failed to:
 - a. to appear and be examined at the Section 341 meeting of Creditors as required by 11 U.S.C. §343;
 - b. commence making Chapter 13 plan payments to the Trustee, as required by 11 U.S.C. §1326(a)(1) and is in arrears, to date, in the amount of \$7,920.00;
 - c. file with the Court evidence that the Debtor has completed an instructional course concerning personal financial management as required by 11 U.S.C. §1328(g)(1);
 - d. file with the Court a certification that all amounts payable under a domestic support obligation have been paid as required by 11 U.S.C. §1328(a); and
 - e. provide to the Trustee and file with the Court copies of verified monthly operating reports each month.
4. The Debtor's proposed Chapter 13 plan in Part 3.1(b) provides for the payment of pre-petition arrearages in the amount of \$144,000.00 to U.S. Bank National Trust, however, there is no corresponding claim filed in the Claims Register. As such, Counsel for Debtor is respectfully requested to file a claim as is deemed appropriate.
5. The deficiencies as stated above impede the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).

6. The foregoing constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: White Plains, New York
December 18, 2023

/s/ Thomas C. Frost
Thomas C. Frost, Chapter 13 Trustee

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**CERTIFICATE OF SERVICE
BY MAIL**

This is to certify that I, Nancy Alexander, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

RONA ALLEN
43-45 SCHUYLER ROAD
NYACK, NY 10960

HEATH S. BERGER, ESQ.
BERGER, FISCHOFF, SCHUMER, WEXLER
6901 JERICHO TURNPIKE, SUITE 230
SYOSSET, NY 11791

DEBORAH KALL SCHAAL, ESQ.
LAW OFFICE OF DEBORAH K. SCHAAL
OFFICE SUITES OF LINDEN OAKS
70 LINDEN OAKS, 3RD FLOOR
ROCHESTER, NY 14625

GREGORY J. SANDA, ESQ.
MCMICHAEL TAYLOR GRAY, LLC
3550 ENGINEERING DRIVE
SUITE 260
PEACHTREE CORNERS, GA 30092

This December 18, 2023

/s/Nancy Alexander

Nancy Alexander, Paralegal
Office of the Standing Chapter 13 Trustee
Thomas C. Frost, Esq.
399 Knollwood Road, Suite 102
White Plains, New York 10603
(914) 328-6333

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Hon. CECELIA G. MORRIS

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**NOTICE OF MOTION, APPLICATION
and
CERTIFICATE OF SERVICE**

**THOMAS C. FROST
STANDING CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, SUITE 102
WHITE PLAINS, NEW YORK 10603
(914) 328-6333**
